

STATE OF ALASKA

SEAN PARNELL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF WATER

Wastewater Discharge Authorization Program

555 Cordova Street
Anchorage, AK 99501-2617

Phone: (907) 269-7564

Fax: (907) 334-2415

TTY: (907) 269-7511

<http://www.state.ak.us/dec/>

December 8, 2010

Certified Mail 7008-1830-0003-5208-0362

Becky Regula
P.O. Box 1687
Petersburg, AK 99833

Subject: Frederick Sound, Regula, Residential
Reference No. POA-2010-725
State ID No. AK 1009-02J

Dear Ms. Regula:

In accordance with Section 401 of the Federal Clean Water Act of 1977 and provisions of the Alaska Water Quality Standards, the Department of Environmental Conservation is issuing the enclosed Certificate of Reasonable Assurance to Becky Regula to construct a single family residence and shop/garage area.

Department of Environmental Conservation (DEC) regulations provide that any person who disagrees with this decision may request an informal review by the Division Director in accordance with 18 AAC 15.185 or an adjudicatory hearing in accordance with 18 AAC 15.195 – 18 AAC 15.340. An informal review request must be delivered to the Director, Division of Water, 555 Cordova Street, Anchorage, AK 99501, within 15 days of the permit decision. Visit <http://www.dec.state.ak.us/commish/ReviewGuidance.htm> for information on Administrative Appeals of Department decisions.

An adjudicatory hearing request must be delivered to the Commissioner of the Department of Environmental Conservation, 410 Willoughby Avenue, Suite 303, PO Box 111800, Juneau, AK 99811-1800, within 30 days of the permit decision. If a hearing is not requested within 30 days, the right to appeal is waived.

By copy of this letter we are advising the U.S. Army Corps of Engineers and Division of Coastal and Oceans Management of our actions and enclosing a copy of the certification for their use.

Sincerely,

Sharon Morgan

Sharon Morgan, Manager
Wastewater Discharge Authorization Program

Enclosure

cc: (with encl.)
David Shaeffer, USACE, Juneau
Tracy DeGering, EPA, AK Operations
Troy Thynes, ADF&G/Habitat, Petersburg

Sean Palmer, ADEC Anchorage
Mary Goode, NMFS, Juneau
William Groom, DRN/DCOM, Juneau

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CERTIFICATE OF REASONABLE ASSURANCE

A Certificate of Reasonable Assurance, in accordance with Section 401 of the Federal Clean Water Act and the Alaska Water Quality Standards, is issued to Becky Regula, PO Box 1687, Petersburg, AK 99833 to discharge fill material into 0.48 acre of jurisdictional wetlands to construct a commercial workshop, residential home, septic system drain field, storage building, and a driveway. The proposed home and storage building would be placed on pilings.

The proposed activity is located within Section 31, T. 58 S., R. 80 E., Copper River Meridian near Petersburg, Alaska.

Public notice of the application for this certification was given as required by 18 AAC 15.180.

Water Quality Certification is required under Section 401 because the proposed activity will be authorized by a Corps of Engineers permit, reference number POA-2010-725, and a discharge may result from the proposed activity.

Having reviewed the application and comments received in response to the public notice, the Alaska Department of Environmental Conservation certifies that there is reasonable assurance that the proposed activity, as well as any discharge which may result, will comply with applicable provisions of Section 401 of the Clean Water Act and the Alaska Water Quality Standards, 18 AAC 70, provided that the following alternative measures are adhered to.

1. Reasonable precautions and controls must be used to prevent incidental and accidental discharge of petroleum products or other hazardous substances. Fuel storage and handling activities for equipment must be sited and conducted so there is no petroleum contamination of the ground, surface runoff or water bodies.
2. During construction, spill response equipment and supplies such as sorbent pads shall be available and used immediately to contain and cleanup oil, fuel, hydraulic fluid, antifreeze or other pollutant spills. For any spill amount, there are Discharge Notification and Reporting Requirements (AS 46.03.755 and 18 AAC 75 Article 3). Most importantly, contact by phone the ADEC Area Response Team for Southeast Alaska, (907) 465-5340 during work hours or 1-800-478-9300 after hours. Also contact by phone the National Response Center at 1-800-424-8802. Report all spills.
3. Plan approval for the collection, treatment, and disposal of domestic wastewater must meet ADEC regulatory requirements as required by (18 AAC 72.200). Prior to the installation of any wastewater treatment system within the community where homes will be served, you must receive construction approval from ADEC, Joran Freeman; phone 907-465-5023.

4. Fill material for the pad construction shall consist of rock which is free from contamination by petroleum products or toxic substances.
5. All work areas, material access routes, and surrounding wetlands involved with trenching and pad construction as described in the Corps Public Notice POA-2010-725 shall be clearly delineated and marked in such a way that equipment operators do not operate outside of this corridor.

This certification expires five (5) years after the date the certification is signed. If your project is not completed by then and work under Corps of Engineers Permit will continue, you must submit an application for renewal of this certification no later than 30 days before the expiration date (18 AAC 15.100).

Date Dec 8, 2010

William Ashton for
Sharon Morgan, Manager
Wastewater Discharge Authorization Program



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Division (1145)
CEPOA-RD
8800 Glacier Highway, Suite 106
Juneau, Alaska 99801-8079

PUBLIC NOTICE DATE: September 10, 2010

EXPIRATION DATE: October 12, 2010

REFERENCE NUMBER: POA-2010-725

WATERWAY: Frederick Sound

Interested parties are hereby notified that a Department of the Army (DA) permit application has been received for work in waters of the United States as described below and shown on the enclosed project drawings.

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact David L. Shaeffer at (907) 790-4492, or by email at david.l.shaeffer@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Becky A. Regula, Post Office Box 1687, Petersburg, Alaska 99833

LOCATION: The project site is located within Section 31, T. 58 S., R. 80 E., Copper River Meridian; USGS Quad Map Petersburg D-3; Latitude 56.7938° N., Longitude -132.8657° W; Frederick Point North Subdivision, Block 4, Lot 6; 3.2 miles southeast of Petersburg, Alaska.

PURPOSE: The applicant's stated purpose is to construct a, "single family residence and shop/garage area".

PROPOSED WORK: The applicant proposes to discharge fill material into 0.48-acre of jurisdictional wetlands to facilitate the construction of a commercial workshop, residential home, septic system drain field, storage building, and driveway. The proposed home and storage building would be placed on pilings.

All work would be performed in accordance with the enclosed plan (sheets 1-4), dated July 23, 2010.

ADDITIONAL INFORMATION: There have been at least four DA permits issued within the Frederick Point North Subdivision. The authorizations were permitted under the following file numbers:

- POA-2007-1155
- POA-2007-1420
- POA-2005-526
- POA-2006-1166

In addition to the above referenced permit actions, there is one residential fill permit pending under file number POA-2010-403. It is likely that there are additional fills in water of the U.S. within Frederick Point North Subdivision, which have not been quantified or linked to a particular authorization.

For residential subdivisions, the aggregate total loss of waters of U.S. authorized by NWP 29 cannot exceed 0.5-acre. This includes any loss of waters of the U.S. associated with development of individual subdivision lots. This office has determined, based on our consideration of cumulative impacts and the Nationwide Permit terms and conditions, that the proposed project cannot be authorized under the Nationwide Permit Program.

APPLICANT PROPOSED MITIGATION: The applicant proposes the following mitigation measures to avoid, minimize, and compensate for impacts to waters of the U.S. from activities involving discharges of dredged or fill material.

a. Avoidance: The applicant stated in an undated letter that they have avoided impacts to waters of the U.S. by utilizing pilings for the house and storage building to reduce fill impacts.

b. Minimization: The applicant stated in an undated letter that they have designed the driveway to be as narrow as possible to minimize impacts to waters of the U.S.

c. Compensatory Mitigation: The applicant stated in an undated letter that "The property behind our lot and bordering the creek to the northeast of the property is state owned land and is designated a green belt area. This will provide for a permanent undisturbed area of wetlands and forested wetlands around our property."

WATER QUALITY CERTIFICATION: A permit for the described work will not be issued until a certification or waiver of certification, as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. A permit will not be issued until the Division of Coastal and Ocean Management, Department of Natural Resources has concurred with the applicant's certification.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRS) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There is an unevaluated property in the vicinity of the worksite. It has been designated PET-00387. Because it has been determined to be outside of the project area, no further action is required. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Commander at this time. Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work.

ENDANGERED SPECIES: Preliminarily, the described activity would not affect threatened or endangered species, or modify their designated critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844). This application is being coordinated with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (NMFS). Any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

ESSENTIAL FISH HABITAT: There is an Alaska Department of Fish and Game cataloged anadromous stream (108-60-10046-) approximately 280 feet from the proposed project area. Preliminarily, the described activity would not affect EFH in the project area. This Public Notice initiates EFH consultation with the NMFS. Any comments or recommendations they may have concerning EFH will be considered in our final assessment of the described work.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between Federally recognized Tribes and the Federal government. Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This Public Notice serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe upon written request to the District Commander during the public comment period.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The outcome of the general balancing process would determine whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur. The decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Commander determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

AUTHORITY: This permit will be issued or denied under the following authorities:

(X) Discharge dredged or fill material into waters of the U.S. - Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

Project drawings, Notice of Application for Certification of Consistency with the Alaska Coastal Management Program, and Notice of Application for State Water Quality Certification are enclosed with this Public Notice.

District Commander
U.S. Army, Corps of Engineers

Enclosures

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF COASTAL AND OCEAN MANAGEMENT

DIVISION OF COASTAL AND OCEAN MANAGEMENT
POST OFFICE BOX 111030, MS 1030
JUNEAU, ALASKA 99811-1030
PHONE: (907) 465-3562/FAX: (907) 465-3075

NOTICE OF APPLICATION
FOR
CERTIFICATION OF CONSISTENCY WITH THE
ALASKA COASTAL MANAGEMENT PROGRAM

Notice is hereby given that a request is being filed with the Division of Coastal and Ocean Management for a consistency determination, as provided in Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended [16 U.S.C. 1456(c)(3)], that the project described in the Corps of Engineers Public Notice No. 2010-725, Frederick Sound, will comply with the Alaska Coastal Management Program and that the project will be conducted in a manner consistent with that program.

This project is being reviewed for consistency with the Alaska Coastal Management Program. Written comments about the consistency of the project with the applicable ACMP statewide standards and district policies must be submitted to the Division of Coastal and Ocean Management (DCOM). For information about this consistency review, contact DCOM at the address or phone number above, or visit the ACMP web site at <http://www.alaskacoast.state.ak.us//Projects/projects.html>.

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF WATER
401 Certification Program
Non-Point Source Water Pollution Control Program

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
WQM/401 CERTIFICATION
410 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1795
PHONE: (907) 465-5321/FAX: (907) 465-5274

NOTICE OF APPLICATION FOR STATE WATER QUALITY CERTIFICATION

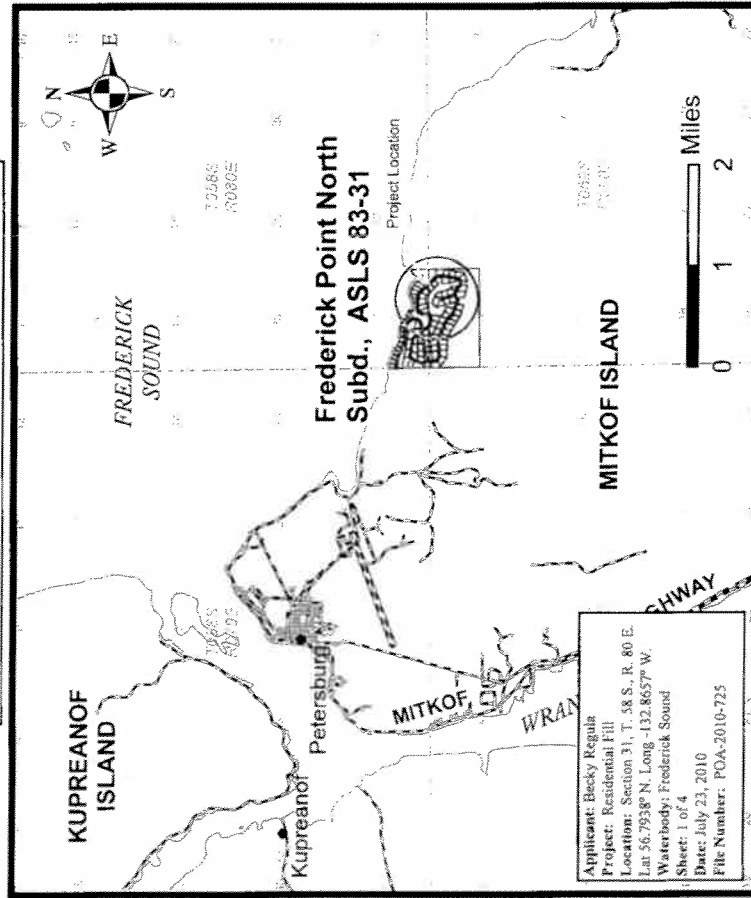
Any applicant for a federal license or permit to conduct an activity that might result in a discharge into navigable waters, in accordance with Section 401 of the Clean Water Act of 1977 (PL95-217), also must apply for and obtain certification from the Alaska Department of Environmental Conservation that the discharge will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. By agreement between the U.S. Army Corps of Engineers and the Department of Environmental Conservation, application for a Department of the Army permit to discharge dredged or fill material into navigable waters under Section 404 of the Clean Water Act also may serve as application for State Water Quality Certification.

Notice is hereby given that the application for a Department of the Army Permit described in the Corps of Engineers' Public Notice No. 2010-725, Frederick Sound, serves as application for State Water Quality Certification from the Department of Environmental Conservation.

After reviewing the application, the Department may certify there is reasonable assurance the activity, and any discharge that might result, will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.

Any person desiring to comment on the project, with respect to Water Quality Certification, may submit written comments to the address above by the expiration date of the Corps of Engineer's Public Notice.

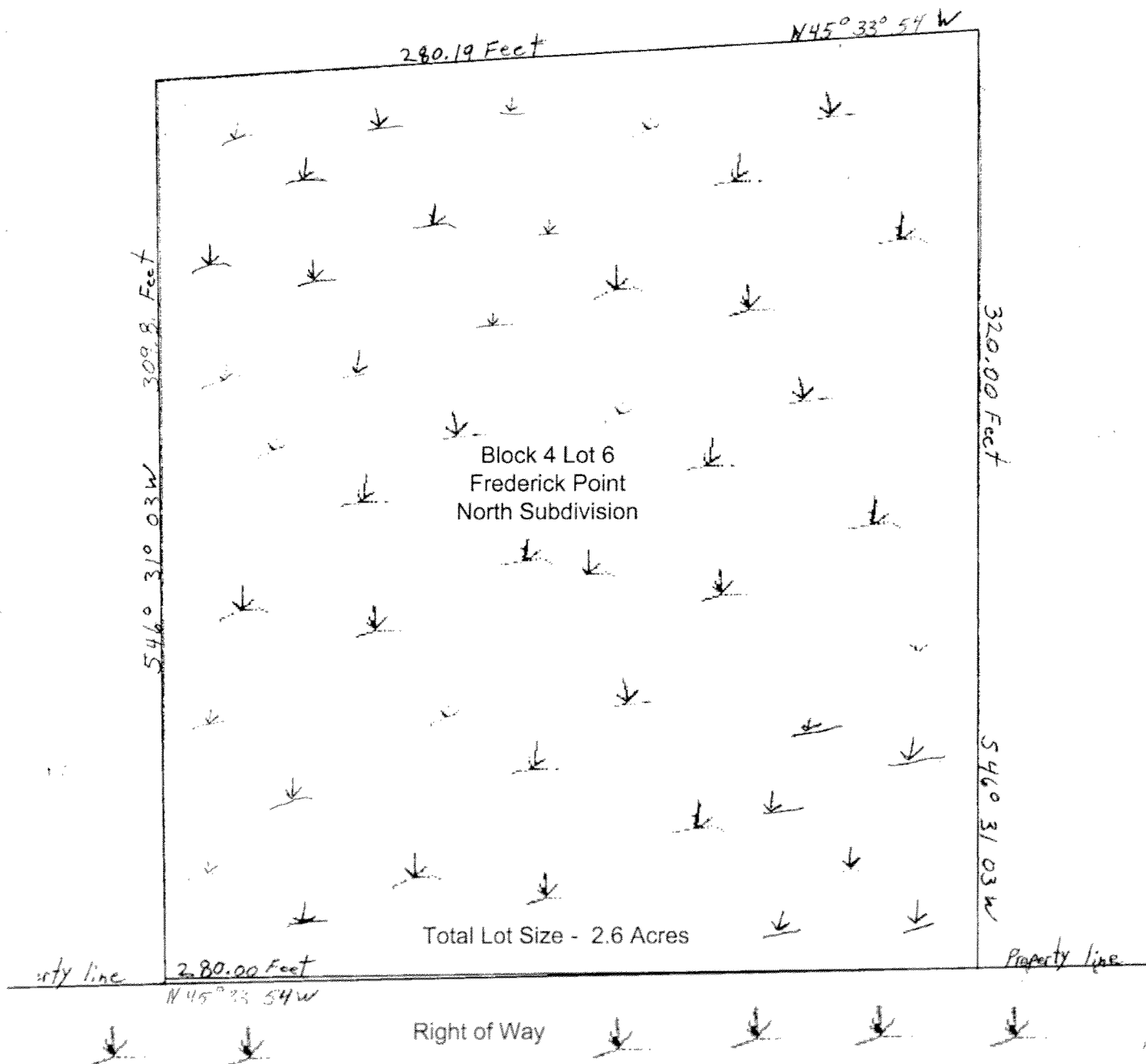
Project Location



Wetlands (Total 2.6 Acres)

State Greenbelt

N



272 Frederick drive

Applicant: Becky Regula

Project: JD Map

Location: Section 31, T. 58 S., R. 80 E.

Lat 56.7938° N. Long -132.8657° W.

Waterbody: Frederick Sound

Sheet: 2 of 4

Date: July 23, 2010

File Number: POA-2010-725

1/16 = 3' Feet
 All pads & drive way are
 Toe to toe measurements

State Greenbelt

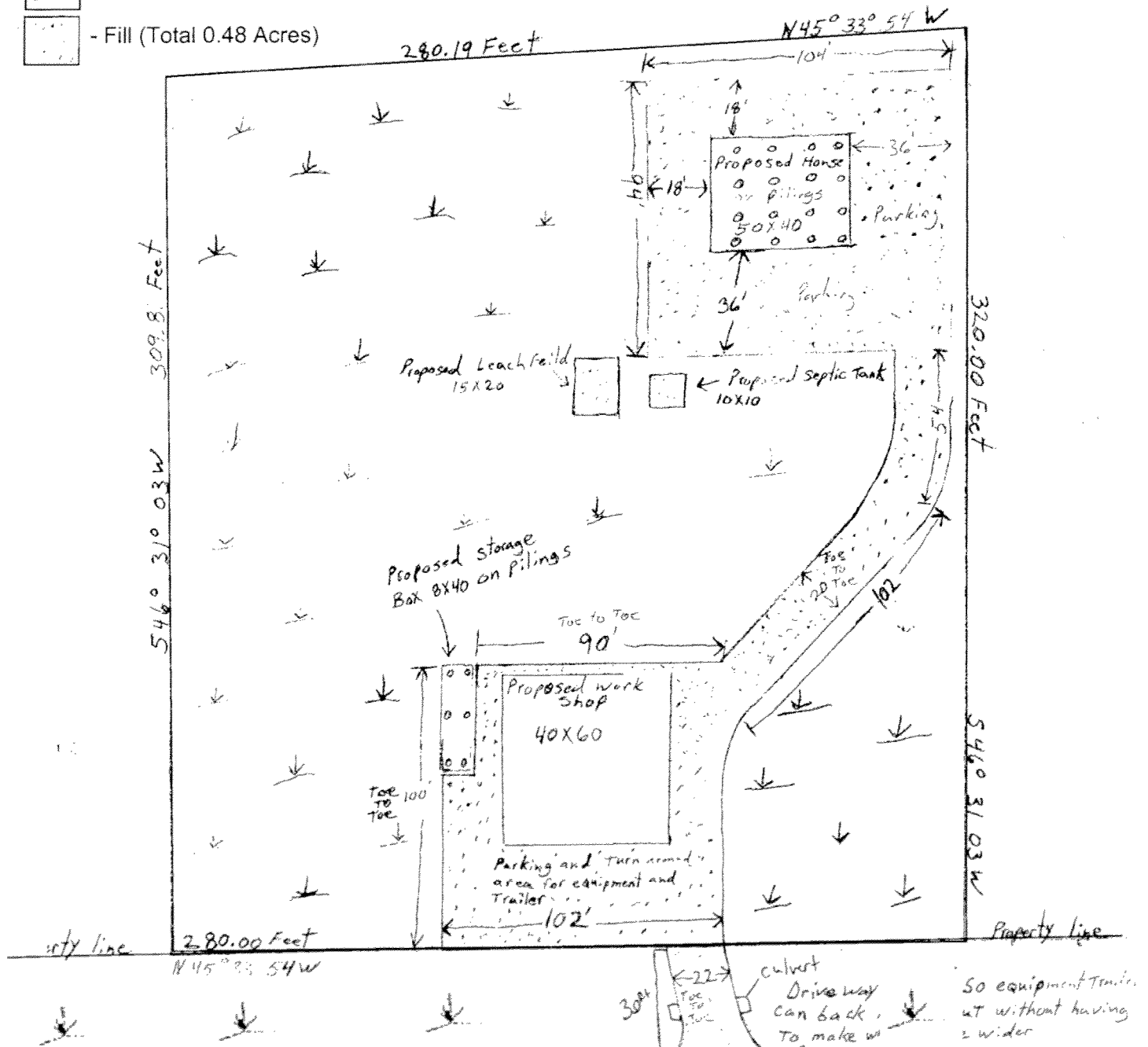
N →



- Wetlands (Total 2.6 Acres)



- Fill (Total 0.48 Acres)



272 Frederick drive

Applicant: Becky Regula

Project: JD Map

Location: Section 31, T. 58 S., R. 80 E.

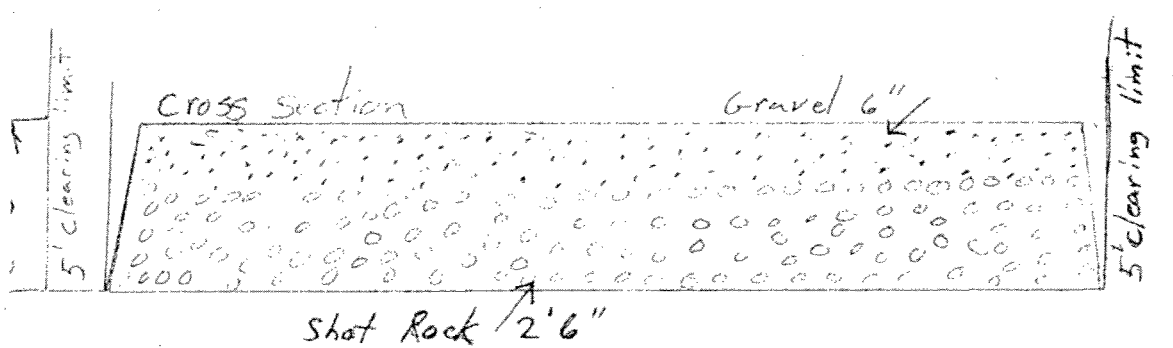
Lat 56.7938° N. Long -132.8657° W.

Waterbody: Frederick Sound

Sheet: 2 of 4

Date: July 23, 2010

File Number: POA-2010-725



Both pads & drive way will be built the same way

Applicant: Becky Regula
Project: JD Map
Location: Section 31, T. 58 S., R. 80 E.
Lat 56.7938° N. Long -132.8657° W.
Waterbody: Frederick Sound
Sheet: 4 of 4
Date: July 23, 2010
File Number: POA-2010-725